

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANNETTE BLANCHARD,

CASE NO. C17-1088JLR

Plaintiff,

ORDER

V.

NORTH CASCADE TRUSTEE
SERVICES, INC., et al.,

Defendants.

Before the court are *pro se* Plaintiff Annette Blanchard’s complaint (Compl. (Dkt. # 5)) and Magistrate Judge Mary Alice Theiler’s order granting Ms. Blanchard *in forma pauperis* (“IFP”) status and recommending that the court review her complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) (IFP Order (Dkt. # 4)). Ms. Blanchard has previously filed a nearly identical suit in this court, which the court dismissed without prejudice for lack of subject matter jurisdiction. *See Blanchard v. N. Cascade Tr. Servs., Inc.*, No. C16-1544JLR (W.D. Wash.), Dkt. ## 22-23. Because this action suffers the same

1 jurisdictional shortcomings as that case, the court DIRECTS the Clerk to refrain from
2 issuing summonses, DISMISSES Ms. Blanchard's complaint (Dkt. # 5) for lack of
3 subject matter jurisdiction, and GRANTS Ms. Blanchard leave to amend her complaint
4 no later than August 17, 2017.

5 In this case and the prior case, Ms. Blanchard sued Defendant North Cascade
6 Trustee Services ("NCTS"). *See Blanchard*, No. C16-1544JLR, Dkt. # 21 at 1-2. Like
7 Ms. Blanchard, NCTS is a Washington domiciliary and therefore destroys complete
8 diversity. *See id.*, Dkt. # 22 at 2. In any case, Ms. Blanchard does not invoke diversity
9 jurisdiction in this case. (*See* Compl. at 4 (indicating only federal question jurisdiction as
10 the basis of the court's subject matter jurisdiction).)

11 In the prior suit, Ms. Blanchard also asserted federal question jurisdiction, but she
12 cited two statutes—28 U.S.C. § 1331 and 28 U.S.C. § 1449—that do not confer
13 substantive rights and did not relate to her claims. *Blanchard*, No. C16-1544JLR, Dkt.
14 # 22 at 2 (citing *Blanchard*, No. C16-1544JLR, Dkt. # 21 at 3). Ms. Blanchard also
15 invoked in passing her "right to due process and constitutional rights," *id.*, Dkt. # 21 at 5
16 (capitalization altered), but her causes of action—fraud, negligence, malfeasance, and
17 misrepresentation—were grounded in state law, *id.*, Dkt. # 22 at 2. Accordingly, the
18 court concluded that Ms. Blanchard "assert[ed] only state law claims and fail[ed] to
19 allege facts to support federal question jurisdiction." *Id.* at 3. The court dismissed the
20 previous action without prejudice on February 16, 2017. *Id.*

21 As compared to her complaints in the previous action, Ms. Blanchard's complaint
22 in this case is identical in all manners relevant to federal question jurisdiction. (*Compare*

1 Compl. at 4, 6), *with Blanchard*, No. C16-1544JLR, Dkt. ## 6 at 6, 21 at 4, 6. Here, Ms.
2 Blanchard asserts that 28 U.S.C. §§ 1331-46 and Article III of the United States
3 Constitution serve as the basis for federal question jurisdiction. (Compl. at 4.) Like in
4 her original case, neither the cited statutory provisions nor Article III “confer substantive
5 rights or relate to this case.” *See Blanchard*, No. C16-1544JLR, Dkt. # 22 at 2. Here,
6 like in her original case, Ms. Blanchard invokes in passing her due process and other
7 constitutional rights. (Compl. at 6); *see Blanchard*, No. C16-1544JLR, Dkt. # 21 at 6.
8 But like in her original case, *see Blanchard*, No. C16-1544JLR, Dkt. # 22 at 2, the only
9 claims Ms. Blanchard asserts proceed under state law and seek to quiet title to her
10 property, enjoin an impending foreclosure sale, and obtain monetary damages (Compl. at
11 6). The court therefore concludes that the complaint fails to allege facts that support
12 federal question jurisdiction.

13 Because of the lack of complete diversity and the absence of a federal question,
14 the court lacks subject matter jurisdiction over this action. The court therefore dismisses
15 Ms. Blanchard’s complaint pursuant to 28 U.S.C. § 1915(e)(2)(B). *See Moss v. Infinity*
16 *Ins. Co.*, No. 15-cv-03456-JSC, 2015 WL 5360294, at *2-3 (N.D. Cal. Sept. 14, 2015)
17 (dismissing pursuant to Section 1915(e) for lack of subject matter jurisdiction).

18 Between this action and Case No. C15-1544JLR, Ms. Blanchard has twice failed
19 to allege facts supporting subject matter jurisdiction in response to a court order
20 explaining that deficiency. *See Blanchard*, No. C16-1544JLR, Dkt. ## 10-11, 20-22;
21 (Compl.) It therefore appears that amendment of the current complaint would be futile.
22 *See Lucas v. Dep’t of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995). However, in consideration

1 of Ms. Blanchard's *pro se* status, the court GRANTS Ms. Blanchard leave to amend her
2 complaint to adequately allege subject matter jurisdiction.¹ Ms. Blanchard must file her
3 amended complaint, if any, no later than August 17, 2017. If she chooses to amend her
4 complaint, Ms. Blanchard must indicate, either on the amended complaint itself or in a
5 separate, concurrent filing, (1) what allegations she has added to the amended complaint
6 that were not present in the initial complaint, and (2) how those allegations support
7 federal jurisdiction. If Ms. Blanchard fails to timely respond to this order or her amended
8 complaint fails to demonstrate a basis for the court's subject matter jurisdiction, the court
9 will dismiss this matter without leave to amend.

10 Dated this 2d day of August, 2017.

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14 JAMES L. ROBART
15 United States District Judge
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¹ The court cautions Ms. Blanchard that an amended complaint supersedes the original complaint and renders it without legal effect. *Lacey v. Maricopa Cty.*, 693 F.3d 896, 927 (9th Cir. 2012).